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Ayotte

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELISSA M. ROBERTS, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

BLOOM ENERGY CORPORATION, et al.,
Defendants.

Case No. 4:19-cv-02935-HSG

**JOINT NOTICE OF SETTLEMENT
AND STIPULATION AND ORDER TO
STAY PROCEEDINGS AND VACATE
HEARINGS PENDING SETTLEMENT
APPROVAL**

Hon. Haywood S. Gilliam, Jr.

1 Lead Plaintiff James Everett Hunt, additional plaintiffs Juan Rodriguez, Kurt Voutaz, Joel
 2 White, Andrew Austin, and Ryan Fishman (“Plaintiffs”) and Defendants Bloom Energy Corporation
 3 and the Individual Defendants (the “Bloom Defendants”) and Defendants J.P. Morgan Securities
 4 LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets
 5 Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC
 6 Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W.
 7 Baird & Co. Incorporated (the “Underwriter Defendants,” and together with the Bloom Defendants,
 8 “Defendants” and together with Lead Plaintiff, the “Parties”), by and through their undersigned
 9 counsel, hereby respectfully inform the Court that they have entered into an agreement in principle
 10 to settle the above-captioned action, and stipulate as follows:

11 **WHEREAS**, on September 29, 2021, the Court entered an order granting in part and denying
 12 in part Defendants’ motions to dismiss (Dkt. 157);

13 **WHEREAS**, the motion to dismiss order granted PricewaterhouseCoopers LLP’s motion to
 14 dismiss all the claims against it (Dkt. 157);

15 **WHEREAS**, on January 5, 2022, the Court issued a Scheduling Order, which, among other
 16 things, established a December 2, 2022 deadline for fact discovery, as well as subsequent deadlines
 17 for expert reports and discovery, dispositive motion briefing and hearing, a pretrial conference, and
 18 trial (Dkt. 175);

19 **WHEREAS**, on December 2, 2022, the Parties filed a joint request for a case management
 20 conference, explaining that they had been in discussions regarding a potential resolution of this
 21 action, had agreed to attend a private, third-party mediation on December 20, 2022, and had
 22 concentrated discovery on preparing for the December 20, 2022 mediation (Dkt. 211);

23 **WHEREAS**, on December 5, 2022, the Court granted the joint request and scheduled a case
 24 management conference for January 17, 2023, with a joint case management conference statement to
 25 be filed by January 10, 2023 (Dkt. 213);

26 **WHEREAS**, on December 20, 2022, the Parties attended the scheduled mediation and did
 27 not settle the case that day, but continued to communicate with the mediator regarding a potential
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1 settlement;

2 **WHEREAS**, on January 6, 2023, after further discussions with the mediator, the Parties
3 reached a settlement in principle of this matter;

4 **WHEREAS**, the material terms of the Parties' settlement will resolve all of Plaintiffs' claims
5 against Defendants in this action;

6 **WHEREAS**, PricewaterhouseCoopers LLP is not a party to this Settlement;

7 **WHEREAS**, the Parties are in the process of memorializing their agreement in a
8 comprehensive written Settlement Agreement;

9 **WHEREAS**, the Parties will work in good faith to finalize the Settlement Agreement as
10 quickly as reasonably possible;

11 **WHEREAS**, Plaintiffs intend to file an unopposed Motion for Preliminary Approval of the
12 settlement following execution of the Settlement Agreement;

13 **WHEREAS**, the Parties have met and conferred and agree that it would serve the interests of
14 efficiency and conserve resources to stay all proceedings in this matter, including all discovery and
15 case deadlines, including the January 10, 2023 deadline to file a joint case management statement,
16 and vacate all hearings currently on calendar, including the January 17, 2023 case management
17 conference, pending finalization of the settlement documentation and a ruling on Plaintiffs' Motion
18 for Preliminary Approval of Settlement;

19 **NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE**, pursuant
20 to Civil L.R. 6-2, by and through their undersigned counsel:

- 21 1. All proceedings in this matter, including all discovery and case deadlines, including
22 the January 10, 2023 deadline to file a joint case management statement, shall be
23 stayed pending finalization of the settlement documentation and a ruling on Lead
24 Plaintiff's Motion for Preliminary Approval of Settlement.
- 25 2. All hearings currently on calendar, including the case management conference
26 scheduled for January 17, 2023, shall be vacated.
- 27 3. Plaintiffs will either file a Motion for Preliminary Approval of Settlement or the
28

Parties shall file a joint status report regarding the status of the settlement by February 14, 2023.

IT IS SO STIPULATED.

<p>Dated: January 10, 2023</p>	<p>SIDLEY AUSTIN LLP</p> <p>By: <u>s/ Matthew J. Dolan</u> Sara B. Brody (SBN 130222) sbrody@sidley.com Matthew P. Henry (SBN 308878) mhenry@sidley.com SIDLEY AUSTIN LLP 555 California Street, Suite 2000 San Francisco, CA 94104 Telephone: 415-772-1279</p> <p>Matthew J. Dolan (SBN 291150) mdolan@sidley.com SIDLEY AUSTIN LLP 1001 Page Mill Road, Building 1 Palo Alto, CA 94304 Telephone: 650-565-7106</p> <p>Robin E. Wechkin (admitted <i>pro hac vice</i>) rwechkin@sidley.com SIDLEY AUSTIN LLP 8426 316th Place Southeast Issaquah, WA 98027 Telephone: 415-439-1799</p> <p><i>Attorneys for the Bloom Defendants</i></p>
<p>Dated: January 10, 2023</p>	<p>MORGAN, LEWIS & BOCKIUS LLP</p> <p>By: <u>s/ Charlene S. Shimada</u> Charlene S. Shimada (SBN 91407) charlene.shimada@morganlewis.com Kevin M. Papay (SBN 274161) kevin.papay@morganlewis.com Robert H. O’Leary (SBN 284879) bob.oleary@morgalewis.com MORGAN, LEWIS & BOCKIUS LLP One Market, Spear Street Tower</p>

	<p>San Francisco, California 94105-1596</p> <p>Telephone: +1.415.442.1001</p> <p><i>Attorneys for Defendants J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated</i></p>
Dated: January 10, 2023	<p>LEVI & KORSINSKY, LLP</p> <p>By: <u>s/ Adam M. Apton</u> Adam M. Apton (SBN 316506) Adam C. McCall (SBN 302130) 75 Broadway, Suite 202 San Francisco, CA 94111 Telephone: (415) 373-1671 aapton@zlk.com amccall@zlk.com</p> <p>Nicholas Ian Porritt (admitted <i>pro hac vice</i>) LEVI & KORSINSKY, LLP 1101 30th Street NW Suite 115 Washington, DC 20007 Telephone: (202) 524-4290 nporritt@zlk.com</p> <p><i>Lead Counsel for Plaintiffs and the Class</i></p>
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*Additional Counsel for Plaintiffs and the
Class*

CIVIL L.R. 5-1(h)(3) ATTESTATION

I, Matthew J. Dolan, am the ECF user whose ID and password are being used to file this
**JOINT NOTICE OF SETTLEMENT AND STIPULATION AND [PROPOSED] ORDER TO
STAY PROCEEDINGS AND VACATE HEARINGS PENDING SETTLEMENT
APPROVAL.** In compliance with Civil Local Rule 5-1(h)(3), I hereby attest that counsel for all
parties have concurred in this filing.

Dated: January 10, 2023


By: s/ Matthew J. Dolan

Matthew J. Dolan

ORDER

Pursuant to the Parties' stipulation, and good cause shown, all proceedings in this matter, including all discovery and case deadlines, including the January 10, 2023 deadline to file a joint case management statement, shall be stayed pending finalization of the settlement documentation and a ruling on Lead Plaintiff's Motion for Preliminary Approval of Settlement. All hearings on calendar, including the case management conference scheduled for January 17, 2023, shall be vacated. If the Motion for Preliminary Approval of Settlement is not filed by February 14, 2023, the Parties shall file a joint status report regarding the status of settlement by that date.

DATED: 1/11/2023


HONORABLE Haywood S. Gilliam, Jr.
United States Judge